

INDEX—ENEMY PROPERTY

ADMINISTRATIVE MACHINERY

control of foreign funds by the U. S. Treasury, 17 ff.; role of Treasury Department, 61 ff.; same, Licensing Division, 61 ff.; tests for coverage of freezing controls, 62; property and transactions within administrative jurisdiction, 63; on drafting license applications, 63-4; nature of license applications, 65; procedure in attachment of blocked property, 65; role of the Alien Property Custodian, 66 ff.; types of control, 66 ff.; disposition of property, 69; problems of the prospective purchaser, 69; remedies for wrongful seizure, 70 ff.; Custodian's administrative procedure for claims, 71; proposed legislation, 73 ff.

ALIEN PROPERTY CUSTODIAN (see also PATENTS)

establishment of office, 66, 77; classes of property within control, 66, 78; identification of property, 78; types of control exercised, 66 ff., 79 ff.; vesting, 79; supervision, 79; control over business enterprises, 80 ff.; control over industrial and miscellaneous property, 83 ff.; disposition, 68 ff., 82, 83, 85; sales procedure, 87; legal remedy against, 69 ff., 88 ff., 142 ff.; administrative procedure for claims, 71, 89 ff.; proposed legislation affecting, 90.

BLACK LIST (see PROCLAIMED LIST OF CERTAIN BLOCKED NATIONALS)

BLOCKED PROPERTY, BLOCKING (see CONTROL OF FOREIGN FUNDS)

CARTELS AND ENEMY PROPERTY

use of cartel to conceal enemy ownership, 109; patent transfer devise, 110 ff.; antitrust problems in management of seized enterprises, 112; administration of patents, 113; renegotiation of license agreements, 115; cartels and disposition of vested property, 115.

CENSORSHIP

relation to economic warfare controls, 57.

COMPARATIVE CONTROLS (see WESTERN HEMISPHERE CONTROLS)

CONCEALMENT OF ENEMY PROPERTY

general statement of techniques, 52-53.

CONFISCATION (see also "INVIOABILITY" OF ENEMY PROPERTY)

general brief against, 152 ff.; exploration of international law, 153 ff.; expressions in early U. S. treaties, statutes, cases, 153 ff.; view of Alexander Hamilton, 155 ff.; views of Story, Marshall, Kent, Field, 157 ff.; expressions around World War I

era, 159 ff.; spirit of post-World-War-I legislation, 161 ff.; considerations of justice and self-interest, 164-5.

CONFLICT OF LAWS

significance of situs, 118 ff.; lack of uniformity in national enemy property measures, 118 ff.; extensive scope of present measures, 120; force of territorialism, 120 ff.; interplay of public policy, 122; ineffectiveness of treaty as to non-parties, 124; situs of simple debts, 125 ff.; analogy of garnishment, 126; significance of domicile, 127; practice under peace treaties of 1919, 128; business branch complications, 129 ff.; situs of corporate stock, 133 ff.

CONSTITUTIONALITY

powers of Congress and President, 135; delegation of power, 136; substantive due process, 137 ff.; as to freezing, 137 ff.; as to supervision, 139; as to vesting, 139 ff.; nature of vesting, 139 ff.; enemies, friends and citizens, 140 ff.; procedural due process, 142 ff.; availability of §9(c) remedy to §5(b) vestings, 143 ff., 149 ff.; constitutionality of an autonomous §5(b), 146-7; effect of pending legislation, 147; conclusions, 148.

CONTROL OF FOREIGN FUNDS

role of finance, 17; German acquisition of financial power and how used, 18-21; beginning of U. S. controls, 21; course of Italy and Japan, 23; U. S. controls, after entry into war, 24; phases of funds control program, 26; objectives and policies of U. S. controls, 26 ff.; interpretation and application, generally, 32 ff.; legal bases: statute, 32; same, executive order, 33; same, Treasury regulations, 34; administration through Federal Reserve Banks, 37; general license technique, 38; same, as to persons, 38; same, as to areas, 39; same, as to transactions, 40; program as to securities, 42; currency, 44; blocked funds in litigation, 44 ff.; census of foreign property, 49-51; vesting, 51; techniques of concealment, 52-53; controls over business enterprises, 54; patents, 55; use of directive license, 55; Black List, 56; inter-American co-operation, 57; communications and censorship, 57; United Nations Declaration, 58; census of American property abroad, 58; ending the controls, 59.

COPYRIGHTS

Alien Property Custodian's control, 84.

EXECUTIVE ORDERS

No. 8389 (and amendments): 4, 5, 8, 21, 24, 33, 34, 43, 61-63, 73, 78, 135; No. 9095 (and amendment, No. 9193): 25, 66, 68, 69, 70, 73, 74, 77, 80, 83, 85, 86, 93.

INDEX—ENEMY PROPERTY

ADMINISTRATIVE MACHINERY

control of foreign funds by the U. S. Treasury, 17 ff.; role of Treasury Department, 61 ff.; same, Licensing Division, 61 ff.; tests for coverage of freezing controls, 62; property and transactions within administrative jurisdiction, 63; on drafting license applications, 63-4; nature of license applications, 65; procedure in attachment of blocked property, 65; role of the Alien Property Custodian, 66 ff.; types of control, 66 ff.; disposition of property, 69; problems of the prospective purchaser, 69; remedies for wrongful seizure, 70 ff.; Custodian's administrative procedure for claims, 71; proposed legislation, 73 ff.

ALIEN PROPERTY CUSTODIAN (see also PATENTS)

establishment of office, 66, 77; classes of property within control, 66, 78; identification of property, 78; types of control exercised, 66 ff., 79 ff.; vesting, 79; supervision, 79; control over business enterprises, 80 ff.; control over industrial and miscellaneous property, 83 ff.; disposition, 68 ff., 82, 83, 85; sales procedure, 87; legal remedy against, 69 ff., 88 ff., 142 ff.; administrative procedure for claims, 71, 89 ff.; proposed legislation affecting, 90.

BLACK LIST (see PROCLAIMED LIST OF CERTAIN BLOCKED NATIONALS)

BLOCKED PROPERTY, BLOCKING (see CONTROL OF FOREIGN FUNDS)

CARTELS AND ENEMY PROPERTY

use of cartel to conceal enemy ownership, 109; patent transfer devise, 110 ff.; antitrust problems in management of seized enterprises, 112; administration of patents, 113; renegotiation of license agreements, 115; cartels and disposition of vested property, 115.

CENSORSHIP

relation to economic warfare controls, 57.

COMPARATIVE CONTROLS (see WESTERN HEMISPHERE CONTROLS)

CONCEALMENT OF ENEMY PROPERTY

general statement of techniques, 52-53.

CONFISCATION (see also "INVOLABILITY" OF ENEMY PROPERTY)

general brief against, 152 ff.; exploration of international law, 153 ff.; expressions in early U. S. treaties, statutes, cases, 153 ff.; view of Alexander Hamilton, 155 ff.; views of Story, Marshall, Kent, Field, 157 ff.; expressions around World War I

era, 159 ff.; spirit of post-World-War-I legislation, 161 ff.; considerations of justice and self-interest, 164-5.

CONFLICT OF LAWS

significance of situs, 118 ff.; lack of uniformity in national enemy property measures, 118 ff.; extensive scope of present measures, 120; force of territorialism, 120 ff.; interplay of public policy, 122; ineffectiveness of treaty as to non-parties, 124; situs of simple debts, 125 ff.; analogy of garnishment, 126; significance of domicile, 127; practice under peace treaties of 1919, 128; business branch complications, 129 ff.; situs of corporate stock, 133 ff.

CONSTITUTIONALITY

powers of Congress and President, 135; delegation of power, 136; substantive due process, 137 ff.; as to freezing, 137 ff.; as to supervision, 139; as to vesting, 139 ff.; nature of vesting, 139 ff.; enemies, friends and citizens, 140 ff.; procedural due process, 142 ff.; availability of §9(c) remedy to §5(b) vestings, 143 ff., 149 ff.; constitutionality of an autonomous §5(b), 146-7; effect of pending legislation, 147; conclusions, 148.

CONTROL OF FOREIGN FUNDS

role of finance, 17; German acquisition of financial power and how used, 18-21; beginning of U. S. controls, 21; course of Italy and Japan, 23; U. S. controls, after entry into war, 24; phases of funds control program, 26; objectives and policies of U. S. controls, 26 ff.; interpretation and application, generally, 32 ff.; legal bases: statute, 32; same, executive order, 33; same, Treasury regulations, 34; administration through Federal Reserve Banks, 37; general license technique, 38; same, as to persons, 38; same, as to areas, 39; same, as to transactions, 40; program as to securities, 42; currency, 44; blocked funds in litigation, 44 ff.; census of foreign property, 49-51; vesting, 51; techniques of concealment, 52-53; controls over business enterprises, 54; patents, 55; use of directive license, 55; Black List, 56; inter-American co-operation, 57; communications and censorship, 57; United Nations Declaration, 58; census of American property abroad, 58; ending the controls, 59.

COPYRIGHTS

Alien Property Custodian's control, 84.

EXECUTIVE ORDERS

No. 8389 (and amendments): 4, 5, 8, 21, 24, 33, 34, 43, 61-63, 73, 78, 135; No. 9095 (and amendment, No. 9193): 25, 66, 68, 69, 70, 73, 74, 77, 80, 83, 85, 86, 93.

GENERAL LICENSES (TREASURY)

No. 1 and 1A, 41; No. 2, 41; No. 4, 41; No. 11, 27, 39; No. 17, 31; No. 25, 43; No. 27, 41; No. 28, 39, 50; No. 29, 43; No. 30 and 30A, 41; No. 32 and 32A, 41, 59; No. 33, 41; No. 42, 6, 38, 50; No. 45, 27; No. 48, 27; No. 49, 40; No. 50, 40; No. 52, 40; No. 53, 11, 39, 56; No. 58, 40; No. 68, 38; No. 70, 40; No. 72 and 72A, 55; No. 76, 24; No. 78, 24; No. 86, 41; No. 87, 43.

GENERAL ORDERS (ALIEN PROPERTY CUSTODIAN)

No. 2, 100; No. 5, 86; No. 6, 86; No. 11, 55; No. 12, 55; No. 13, 55; No. 20, 86; No. 26, 14, 68, 69, 87.

GENERAL RULINGS (TREASURY)

No. 3, 42; No. 4, 34, 38; No. 5 and 5A, 10, 42, 44; No. 6 and 6A, 9, 43, 44; No. 10, 43; No. 11, 41, 58, 59; No. 12 and 12A, 39, 44, 45, 46, 49, 65; No. 17, 9, 41.

INTERNATIONAL LAW

explorations in public international law bearing on confiscation, seizure and return of enemy private property, 152 ff., 166 ff.

"INVIOABILITY" OF ENEMY PROPERTY (see also CONFISCATION)

background: treaty of 1799 with Prussia, 166; comparison with Versailles Treaty, 167; shifting back and forth of international law viewpoints, 168 ff.; relation of nature of international law and practice, 169; wartime administration of enemy property vs. disposition, 171; Americanization and use, 172 ff.; pro's and con's of returning enemy private property, 174 ff.; distinctions in enemy property, 176; dictates of self-interest, 176; certain financial and economic considerations, 177 ff.; actual consequences of return of properties, 180 ff.; futility of return of certain enemy properties, 180 ff.; confiscation is not the issue, 181.

"NATIONALS" SUBJECT TO CONTROLS

comparisons, various countries, 6 ff.; loyalty test, 7-8; definition, in U. S. controls, 33, 63, 137; determination, 89, 146.

PATENTS

original Treasury jurisdiction, 55; authority of Alien Property Custodian, 93; comparison with World War I, 93; program for promoting use of patents, 94; disposition of seized interests in patents, 96 ff.; non-exclusive licensing, 96 ff.; royalty policy, 97; duration of license, 99; assurances of licensee, 100; patents licensed or assigned prior to vesting, 101 ff.; patent contracts, 102; provisions of contracts, 103; abrogating restrictive provisions, 104; administration of patent contracts, 104; patents held by vested corporations, 105; statistical analysis of Custodian's patent holdings, 107; ultimate disposition, 108; transfer of patents by car-

tels in aid of concealment, 110; patent administration in relation to cartels, 113 ff.

POLICY OF THE CONTROLS

elimination of inimical influences, 5; general aims, 16; as to property of occupied countries, 26-29; same, enemy countries, 29-30; same, blocked countries, 30; statement of general policies, 31; patents, 93 ff.

POST-WAR TREATMENT

prospects, generally, 183 ff.; background of H. R. 3672, 183; sources of opposition, 183 ff.; considerations on which H. R. 3672 was introduced, 185 ff.; bill's conformity to principle, precedents, etc., 188 ff.; some Congressional views, 190 ff.; not confiscation, but equity, 193 ff.; some open questions, 196 ff.; special problem of patents, 197; concluding considerations, 199.

PROCLAIMED LIST OF CERTAIN BLOCKED NATIONALS

basis, 10 ff.; similar lists in other countries, 11 ff.; significance, 10-12; further observations, 56-57.

PROSPECTIVE LEGISLATION (see also POST-WAR TREATMENT)

bills pending, 73 ff., 90-91; relation to problems of constitutionality, 147; general discussions, 180 ff., 183 ff.

REMEDIES

against wrongful seizure of properties, 70 ff., 143 ff.; availability of §9(c) remedy to §5(b) vestings, 70 ff., 143 ff., 149 ff.; constitutionality of an autonomous §5(b) remedy, 146-7; administrative remedy, Treasury and Custodian, 146.

TRADING WITH THE ENEMY ACT

Generally: 4, 25, 32, 36, 76, 93, 112, 137, 159, 160.

§3(a): 57.

§5(b): 22, 25, 26, 32-33, 57, 61, 66, 68, 70-73, 77, 100, 135, 136, 139-51.

§7(c): 68, 70, 72, 73, 136, 144, 150, 151.

§9: 161.

§9(a): 70, 71, 73, 143, 145, 146, 148, 149, 150.

§12: 68, 88, 161.

TRADEMARKS

Alien Property Custodian's control, 83.

VESTING OF ENEMY PROPERTY

first exercise of power, 51; authorization, 79; nature of vesting, 139 ff.; vesting as constitutional, 139 ff.; availability of §9(c) remedy to §5(b) vestings, 143 ff., 149 ff.

WESTERN HEMISPHERE CONTROLS

background, 3-6; persons subjected, 6 ff.; freezing, 8-9; currency and securities, 9-10; "Black List," 11-12; census of property, 12-13; supervision of commercial activities, 13; forced transfers of property, 14-16; general aims, 16.

INDEX—FINANCING SMALL BUSINESS

ACCOUNTS RECEIVABLE

legal aspects of assignments, 284 ff.

AMERICAN BANKERS ASSOCIATION

Post-War Small Business Credit Commission, 221, 224 n., 225, 252.

AUTOMOBILE LIENS

legal aspects, 296; central registry, 297; accessories, 298.

BANKRUPTCY ACT

specific applications of §60, 282 ff.

CAPITAL MARKETS (see also SECURITIES REGULATION)

inadequacy for small business needs, 234; general discussion of term and equity capital, 248-73; governmental inquiries into problems, 249 ff.; private concern over capital supply, 252; validity of certain underlying assumptions, 253 ff.; no lack of capital but question of cost, 255 ff.; clarification of term and equity capital, 257; anomalous position of preferred stock, 260; factors that keep up costs, 262 ff.; basic difficulty in current proposals, 262 ff.; suggestion of outright subsidy, 270; suggested changed criteria of lending, 271 ff.; relation to full employment proposals, 272.

CHattel MORTGAGE AND CONDITIONAL SALE

legal aspects, 290 ff.

COMMERCIAL BANKS

lending activities, 222 ff.; evaluation of this source of funds, 225; general discussion of role, 386 ff.; banks' pre-war lending record, 386; banks' war-time activities, 387; post-war program, 387; the Post-War Small Business Credit Commission, 387; —, credit policy, 388; —, 5-point program, 388; education and information, 389; term loans, 389 ff.; protective provisions in term loans, 390 ff.; small business loan facilities, 395; correspondent banking potentials, 395; bank credit groups, 396-9.

COMMUNITY PLANS (see REGIONAL EXPERIMENT IN INDUSTRY DEVELOPMENT)

COMPETING FOR FUNDS (see SOURCES OF FUNDS)

CONDITIONAL SALE (see CHATTEL MORTGAGE)

CORPORATION V. PARTNERSHIP FOR SMALL BUSINESS

preliminary observations on smallness, 404; the corporation as insulator from liability, 405 ff.; disregarding corporate entity, 406-7; limited liability by partnership: the profit-bearing loan, 408; use of limited partnership, 408-9; subpartnership, 409; costs saved by partnership, 410; debtor's exemptions as limiting partner's risk, 410; effectiveness of

tenancy by entirety, 410-11; pertinence of fraudulent conveyance law, 412; tax comparisons of corporation and partnership, 412 ff.; paying out corporate income as salaries, 414-7; tax savings by family partnership, 417; relative continuity of corporation and partnership, 418 ff.; provisions to assure continuity on death of partner, 419 ff.; relative equality of access to capital of small corporation and partnership, 422 ff.

EQUITY CAPITAL (see CAPITAL MARKETS)

FACTOR

largely serves textile manufacturer, 228-9; operations, 228-9; not important to small retailer, 276 n.

FEDERAL RESERVE SYSTEM

assistance under Fed. Res. Act, 236 ff., 256.

FINANCIAL ADVICE AND GUIDANCE

the need for counsel, 334; small businessman's confusion in matters of finance, 334 ff.; special situations requiring advice, 335; importance of managerial ability and experience, 336; sources of guidance, 337 ff.; potential expansion of Department of Commerce, 339; local industrial development companies, 340 ff.; role of private agencies catering to finance requirements, 342; potential role of colleges, 343.

GENERAL ECONOMIC SURVEY

definition of small business, 205; numerical data, 206; effect of war on small business, 208; devotion to small business, 209; political importance, 210; social importance, 210; economic importance, 210 ff.; importance of new investments, 212; limitations and difficulties of small business, 212 ff.; can small business be helped, 215; policies of big business, 215; governmental concern, 216; special aid, 216; need for better management, 217.

G. I. BILL OF RIGHTS (see SMALL BUSINESS FOR VETERANS)

INDUSTRIAL DEVELOPMENT CORPORATIONS (see REGIONAL EXPERIMENT IN INDUSTRY DEVELOPMENT)

INVESTMENT BANKERS ASSOCIATION

local investment companies proposal, 236; remarks of Mr. Eberstadt, 252-3.

LOCAL VENTURE CAPITAL (see also REGIONAL EXPERIMENT IN INDUSTRY DEVELOPMENT)

general observations, 218-19, 233, 235, 268; specific cases of local financing, 365 ff.

LONG TERM CAPITAL (see CAPITAL MARKETS)

MEAD-LEA BILL

to provide management consulting service, 217.

PLEDGES

legal aspects of, including equitable pledge, 287 ff.

RECONSTRUCTION FINANCE CORP.

lending activities under RFC Act, 239-41, 256, 399 ff.; general explanation of the RFC 75% program, 399 ff.; steps in loans under the Blanket Participation Agreement, 400 ff.; prerequisites of new loans, 401 ff.; other forms of RFC bank participations, 402; location of RFC loan agencies, 403.

REGIONAL EXPERIMENT IN INDUSTRY DEVELOPMENT

the New England Industrial Development Corporation, 361 ff.; origin, 361; purpose and objective, 361; program, 362; general survey of work, 362 ff.; illustrative cases, 364-5; illustrative solution of problems, 365-7; organizational chart, 366; personnel, 367 n., 368 n.; potentialities in development research, 369.

RETAILERS' CREDIT

continuing predominance of small retailers, 274; sources of credit other than commercial banks, 274 ff.; mercantile credit, 275 ff.; on consignment, 276; disadvantages of mercantile credit, 276; high cost of credit to small retailer, 277; financing of accounts receivable, 277 ff.; open accounts and installments, 277-9; sales finance company operations, 279; future prospect of credit for small retailer, 279-80.

ROLE OF SMALL BUSINESS (see GENERAL ECONOMIC SURVEY)**SECURITIES REGULATION (see also CAPITAL MARKETS)**

in general, does it hinder financing small business, 301 ff.; federal security regulation, 302 ff.; exemptions affecting small business, 302 ff.; administrative exemption of small issues, 304 ff.; evaluation of costs attributable to regulation, 308 ff.; statistics on costs, footnotes at 310, 311; burden of delay, 311; state security regulation (Blue Sky laws), 313 ff.; state exemptions, 314; types of registration and regulation, 314 ff.; costs under state laws, 318; evaluation of restrictive effect of regulation, 319.

SECURITY LAW—CURRENT DEVELOPMENTS

effect of 1938 changes in Bankruptcy Act, 282 ff.; preferences under §60, 282; accounts receivable as collateral, 284 ff.; —, recent state legislations to perfect assignments, 285 ff.; pledge and equitable pledge, 287 ff.; field warehousing, 290; chattel mortgage and conditional sale, 290; —, some technicalities in statutory requirements, 291-3; free-handed mortgage, 293 ff.; trust receipts, 295; liens and transfers as to automobiles, 296; —, central registry, 297; usury laws, 298; fixtures and accessories, 298.

SMALL BUSINESS FOR VETERANS

plans of servicemen, 344 ff.; Army survey data, 345 ff.; New Jersey's Veterans Business Loan Act, 347; data from Department of Commerce, 347; kinds of business already loaned (N. J.), 348; G. I. Bill, 349, 354 ff.; —, business loans provisions, 349; agencies guaranteeing loans, 351; steps in obtaining loans, 351; business hazards confronting veteran, 352; wartime regulations, 353; price changes, 353; schemes and rackets, 354; problems and G. I. Bill, 354; community assistance, 355; N. J. plan, 355; community action, 356; plans of banks, 357; wholesalers and manufacturers' help, 357; programs of schools and colleges, 358; aid from federal agencies, 358; some recommendations, 359.

SMALL BUSINESS MOBILIZATION ACT OF 1942

Smaller War Plant Corp. authority to guarantee loans for acquisition of surpluses by small business, 327.

SMALLER WAR PLANTS CORP. (see SURPLUS PLANTS AND GOODS)**SOURCES OF FUNDS (see also RETAILERS' CREDIT)**

opinions on access to funds, 220; criteria for evaluating sources of capital, 221; commercial banks, 222 ff.; —, short-term loans, 222; —, miscellaneous financing, 224; —, term loans, 224; trust companies, 225; credit groups, 225; evaluation of banking sources, 225; industrial banking, 226; Morris plan, 226; small loan companies, 227; factors, 228; insurance companies as sources, 229; commercial paper houses, 230; equipment manufacturers and suppliers, 231; trade credit, 232; private venture capital, 233; capital markets, 234; parent corporations, 234; private development groups, 235; Federal Reserve assistance, 236; Wagner-Spence Bill, 238; Reconstruction Finance Corp., 239; Smaller War Plants Corp., 241; public development groups, 243; source in undistributed profits, 244; some conclusions on sources of funds, 245-7.

SURPLUS PLANTS AND GOODS

general observations on Surplus Property Act, 320 ff.; surplus in World War I, 321; objectives of Surplus Property Act of 1944, 323; relationship of Act to small business, 323; priorities and preferences under the Act, 324; financing acquisition of surpluses, 326 ff.; —, Small Business Mobilization Act of 1942, 326; policy of Smaller War Plants Corp. as to acquisition of surpluses, 327; durable goods, 327; consumer goods, 328; government war plants and facilities, 329; methods of plant disposal, 331.

TAXATION AND SMALL BUSINESS

preliminary observations on small business, 371-4; taxation as a brake on expansion, 374; in-

come of corporations should not be taxed, 375; heavy surtaxes in upper individual brackets should be removed, 376-7; taxes cut profits and hurt incentive, 378; society the real beneficiary of invested capital, 378-9; should be no tax on savings, 379; recommended: sales taxes and income taxes with savings deductions, 379; taxation recommendations of Small Business Advisory Committee, 380 ff.

TAXATION RECOMMENDATIONS OF SMALL BUSINESS ADVISORY COMMITTEE

reproduced in full at pp. 380-5 (appended to Prof. King's article); objectives of a tax system, 380; problems of conversion and transitional period, 381 ff.; —, excess profits tax, 381; —,

amortization refunds, 382; —, carry-back changes, 382; —, tax reduction, 382; post-war period, 383 ff.; suggested role of Department of Commerce in research on impact of taxation on small business, 384-5.

TAX COMPARISONS

of corporate and partnership forms of small business, 412 ff.

TRUST RECEIPTS

legal aspects, 295.

VETERANS (see SMALL BUSINESS FOR VETERANS)

WAGNER-SPENCE BILL

to permit Federal Reserve 90 percent loan, 238.

Air Ca

surfa
force
legis
528;
529;
530-;
tics,
533 ;
and
ventin
of c
tresp

Airpor

gener
propo
to ot
publi
airpo
priva
the
546;
predi
reach
pass"
550;
tion
552 ;
affect

Aviation

its si
some
beyon
reco
558;
ing
saw
lawy

Chicago

some
446-7-
views
diffic
seque
docur
ratific
heren
the i
tion
techn
616;
of th

INDEX—AVIATION TRANSPORT

AIR CARRIER LIABILITY

surface damage, 525 ff.; state statutes, 525-6; forced landings, 526; proposed surface damage legislation, 527; personal injury—basis of liability, 528; standard of care, 529; plaintiff's difficulties, 529; counter-arguments, 530; *res ipsa* doctrine, 530-2; survey of recoveries, 532; accident statistics, 533; proposals for personal injury liability, 533; limitation of liability, 534 ff.; state statutes and constitutional provisions, 534; Warsaw Convention, 534; proposals, 535; suggested adjustment of conflicting interests, 537-8; low-flying as a trespass, 546.

AIRPORTS

general discussion of conflicting interests of nearby property owners, 539-55; each can be a nuisance to other, 539; aerial approach standards, 540; the public's interest, 541; importance of zoning, 542; airport as a "nuisance," 543 ff.; considerations, 544; privateness of the airport, 545; public interest as the determinant, 546; low-flying as a trespass, 546; three theories of airspace, 547; theory vs. predictability of liability for harmless flight, 549; reaching "nuisance" results under "technical trespass" doctrine, 550; enjoining airport hazards, 550; intentional obstructions, 551; zoning regulation legally essential, 552; constitutional pitfalls, 552; reasonableness, 554; some considerations affecting reasonableness, 555.

AVIATION LAW (see various other topics)

its significance to the practicing lawyer, 556-563; some points to look out for, 556 ff.; must look beyond common law and state statutes, 557 ff.; recording liens and titles to aircraft with C.A.A., 558; watch out for zoning, 559; treaty-law covering international flights, 559 ff.; thus, the Warsaw Convention and how it comes home to any lawyer, 560 ff.

CHICAGO CONFERENCE

some aims and results of international agreement, 446-7; agreements prior to the Conference, 521; views of U. S. delegation at, 606; "five freedom" difficulties, 606; where the Conference failed, 608; sequels to the Conference, 609-28; six important documents resulting from the Conference, 609; ratifications of the Convention, 610; tables of adherences to the Conference agreements, 611-12; the interim agreement and the interim organization (PICAO), 613; improvement on Conference's technical annexes, 614; PICAO's Interim Council, 616; chart, 617; PICAO set-up, 617 ff.; acceptance of the "Two Freedoms," 621; acceptance of the

"Five Freedoms," 623; new bilateral agreements following Conference form, 624; miscellaneous sequels to the Conference, 624 ff.

COMMON CARRIER BY AIR (see NON-SCHEDULED OPERATIONS)

CONSTITUTIONALITY

bases of federal power, 461-2, 463 (cases), 489, 575; state laws adopting federal regulations, 468; state taxation of planes, 482, 584 ff.; zoning, 487, 552 ff.; proposed Lea Bill for complete federal regulation, 575.

COSTS AND RATES

potentials, 440 and 452 ff.; downward trend in unit operating costs, 440-1; design and operational improvements, 441-2; luxury vs. coach type service, 444, 457; possibilities for lower costs, 452 ff.; significance, often overlooked, of ground and indirect expenses, 452 ff.; actual increasing of ground and indirect expenses, 452 ff.; statistical tables, 453; loss-producing routes, 454; inherent limitations on air transport, 455; high cost terminal charges, 455; coordination with other forms, 455; relation of rate regulation theories to high costs, 456; for a competitively established rate, 456; private airplane competition, 457; joint airline economies, 457; for stressing lower costs and rates, 458.

Drumm, United States v., 563, 568

ECONOMIC ASPECTS (see also COSTS AND RATES)

general survey of the industry, 431 ff.; comparisons with other transportation, 432; origins of the industry, 433; classification of certified carriers, 433-4; comparative figures by nations, 434-5; pattern of international network, 436; potential local and non-stop express service, 437; economic characteristics of air transportation, 438 ff.; essential dynamism, 438; technological development, 438; operational indices, 438-9; future of air transportation, 439 ff.; determinant characteristics, 439; potentialities, 440; potential rates and costs, 440; downward trend in unit operating costs, 440-1; improvements in aircraft design and operating efficiency, 441-2; potential future markets, 443; competitive position against surface carriers, 443; luxury and coach-type service, 444; cargo operations, 445; political obstacles to full potential development, 446; Chicago international conference results, 446-7; cartel dangers, 448; conflicting allegiance tie-ups, 449; influences of financial policy, taxation, regulation, 449-51.

"FIVE FREEDOMS" (see CHICAGO CONFERENCE)

INTERNATIONAL ASPECTS (see also CHICAGO CONFERENCE)

political obstacles, 446 ff.; scheduled and non-scheduled flying, 521; limited liability on international flights, 534, 560 ff.; general discussion of influences on international aviation policy, 598-608; the air sovereignty problem, 603 ff.; "five freedom" difficulties at Chicago Conference, 606; failures in Chicago Conference, 608.

JURISDICTION (see also STATE REGULATION, LEGISLATIVE PROGRAM)

over domestic civil aviation generally, 459-87; federal jurisdiction, sources and scope, 460 ff.; federal safety jurisdiction, 462-4; federal economic jurisdiction, 464-7; state safety jurisdiction, 467-9; state economic jurisdiction, 469-74; state airport and zoning enabling statutes, 474; state jurisdiction over accident liabilities, 474; survey of liability statutes, 474-7; state workmen's compensation, 477; state assertion of jurisdiction over airspace, 478; historical survey of airspace theory controversy, 479; state and local taxes, types, 480-3; situs theories, 480-1; local jurisdiction (municipal), 483-7; airports, 484; low flights over cities, 484; zoning for airport approaches, 485; state-federal division of regulation, 503 ff., 566.

LEA BILLS (H. R. 3383, 464)

various aspects, 567, 572, 575, 577.

LEGISLATIVE PROGRAM

background of existing legislation, 564; existing state and federal regulation, 566 ff.; to cover private flying, 567; safety regulations for commercials, 568-70; extension of economic regulation by the states, 570-3; proposed exclusive federal regulation, 572; proposal of state commissioners, 572-4; constitutional considerations, 575-6; the case for exclusive federal regulation, 577; regulation of contract carriers, 578; multiple taxation legislation, 579-83.

LIABILITY (see AIR CARRIER'S LIABILITY, AIRPORTS)

NON-SCHEDULED OPERATIONS

statutory background for comprehension of "scheduled" and other terms, 508-9; operations within statutory economic regulation, 509; administrative exemption of non-scheduled operations, 510; meaning of non-scheduled, 511; examples, 512-3; proposed modification of exemptions, 514; significance of "common carrier" in the regulatory scheme, 515-21; some earmarks of common carrier, 516; transportation by seller to buyer, 519; "fly-away" service, 520; international services,

521; international agreements, 521-2; summarizing remarks about non-scheduled operations, 523.

Northwest Airlines v. Minnesota

(state taxation of planes), 482, 575, 580, 584 ff.

PRIVATE FLYING (see NON-SCHEDULED OPERATIONS)

proposed legislation regulating, 567.

REGULATION (see JURISDICTION, LEGISLATIVE PROGRAM)

Rosenhan v. United States

federal regulation of intra-state flying, 463, 568.

STATE REGULATION

safety, 467-9; economic, 469; general discussion of appropriate areas of state economic regulation, 488-507; summary of arguments against state economic regulation, 489-90; proposals to eliminate state regulation, 490; increasing role of local service, 491; aviation does not require exclusive regulation, 492; development not jeopardized by state regulation, 493; state regulation not costly or burdensome, 495; substantial uniformity feasible, 496; for state regulation of developing local commerce, 498; federal regulation impracticable over local lines, 500 ff.; states' rights' position, 502-3; a new approach: reexamining adjustments between state and federal control, 503 ff.; state and federal limitations and areas, suggested criteria, 505-7; objections to state regulation, 570-3.

TAXATION

types of state and local taxes on aviation transport, 480; situs theories, 480-1; proposed legislation to avoid multiple taxation, 579-83; general discussion of air carrier taxation, 584-97; aftermath of Northwest Airlines case, 584 ff.; problems raised by taxation study, 585; present status of airline taxation, 585-7; exclusive federal taxation, 587; difficulties in "differential" taxation, 587-8; problem of defining the allocable base, 588-90; allocable-base appraisal, 590; allocation formulas, 590; federal determination of allocation fractions, 592; federal limitation of state tax rate, 593; taxation of aviation fuel, 594; taxation of fixed base operators, 595; international carriers and foreign lines, 596.

TWO FREEDOMS (see Chicago Conference)

United States v. Drumm

federal regulation of intra-state flying, 563, 568.

WARSAW CONVENTION

limiting liability, 534, 560 ff.

INDEX—INTERNATIONAL TRADE BARRIERS

AIMS AND INTERESTS IN TRADE

interrelation of domestic economy and foreign trade, 633; struggle for trade domination, 634; trade characteristics, 635; U. S. aims and interests, 636; barriers: tariffs, 637; quotas, 638; subsidies, 638; export controls, 639; collective activity to gain markets, 639; reciprocal trade agreements, 639; commodity agreements, 639; self-sufficiency, 640; cartels, 640; equal treatment to foreign business, 641; monetary problems, 641; monetary blocs, 642; financial agreements, 643; Export-Import Bank, 643; International Bank, 643; political trade barriers, 644; postwar trade outlook, 645.

American Banana Co. v. United Fruit Co., 671.

AMERICAN DISCRIMINATIONS

under federal law, in general, 777-784; in tax matters, 777 ff.; Internal Revenue Code as to foreign corporations and non-resident aliens, 778 ff.; dividends-paid credit, 780; capital losses, 781; credit for foreign taxes, 781; withholding of tax, 781; failure to file returns, 782; regulated investment companies, 783; miscellaneous non-tax discriminations, 783; discrimination under state laws, 784 ff.; corporate entrance fees, land ownership, etc., 785; judicial protection against discrimination, 785; the Fifth and Fourteenth Amendments, 786 ff.; resort to treaties, 789; certain interpretation difficulties under treaties, 789 ff.; principles of treaty construction, 791; summary of principles of judicial protection, 793.

ARBITRATION IN FOREIGN TRADE DISPUTES

general treatment, 808-834; disputes as barriers to trade, 808; legal effect of arbitration clauses, 810; wording of clauses, 813; procedure in arbitration, 815; powers of arbiters, 818; required to observe the commercial law, 819; enforcement of awards, 821 ff.; under English and foreign law, 822; New York law, 823; arbitration tribunals: commodity associations, 825; same: arbitration associations, 827; various named associations, 827-831; the American Arbitration Association, 829; answering some criticisms of commercial arbitration, 832.

BRETTON WOODS PLAN

the International Bank, 643; International Monetary Fund, 802, 803, 835.

CARTELS (see also RESTRICTIVE BUSINESS PRACTICES)

goals, 640; the U. S. "Proposals" as to restrictive business practices, 667; nations' diverse outlook, 668; as barriers to trade, generally, 684 ff.; economic warfare roots in philosophy of restriction, 686; cartel characteristics, 687; cartels vs. basic aspects of American trade policy, 688; foreign commerce within anti-trust laws, 690; a case study of cartel aims, 691; meeting cartelized foreign industry, 692; significance of Webb-Pomerene Act, 693; free trade as a goal despite postwar dislocations, 694.

COMMERCIAL TREATY PROGRAM

reciprocal trade agreements, 639; State Department's "Proposals," 647; historical sketch of commercial treaties, 648; table of treaties, 652; analysis of treaty coverage, 653; inadequacies under changed conditions, 655; significance of direct foreign investments, 656; significance of self-sufficiency efforts, 656; increasing role of government, 657; recent trends: minimizing double taxation, 658; same: commodity agreements, 658; prospects for modifying restrictive practices, 659; conclusions as to needs of an adequate treaty program, 661-662.

Commissioner v. East Coast Oil Co., 765.

COMMODITY AGREEMENTS

as barriers, 639; objectives, 658; justification and limitations, 658.

Compañía General de Tabacos de Filipinas v. Collector, 765.

CREDITORS, TREATMENT OF (see FOREIGN AND DOMESTIC CREDITORS)

DIRECT INVESTMENT

in undeveloped countries, generally, 741-759; the shift to direct investment, 742; relative record of direct investment, 743; advantages of direct investment, 744; attitude of local governments, 745; risks of direct investment, 745; common criticisms of foreign enterprise, 746; charges of excess profits, 746; graduated royalties and taxation techniques, 747; special problem of utility companies, 748; quasi-colonial investment policies, 749; domestication of foreign enterprises, 750; insularity of the foreigner, 751; foreign business' resentment against social legislation, 751; partnership with local capital, 752; partnership with local governmental capital, 755; reappraisal of conventional procedures for adjusting disputes, 757; need for specialized tribunals, 758; long range interest of the foreign investor, 759.

DISCRIMINATIONS (see various titles; also, AMERICAN DISCRIMINATIONS)

EXPORT CONTROLS (see IMPORT & EXPORT CONTROLS)

FOREIGN AND DOMESTIC CREDITORS

comparative law survey, 696-712; the problem of equal treatment, 696; internationally scattered assets of debtor, 698; misunderstanding of American decision, 699; advantages of local vs. principal bankruptcy, 700; exequatur, 700; attachments preceding foreign bankruptcy, 701; priority through local bankruptcy, 701; branch creditors, 702; debtor with separate establishments, 703; case of nationalized Russian assets, 706; Litvinov assignment and the *Pink case*, 707; enemy assets, 709;

equal treatment by treaty, 710; international concern over creditor equality, 711.

IMPORT AND EXPORT CONTROLS

general treatment, 795-807; import quotas, 796; same: administration, 796; same: history and development, 798; same: elimination and relation to currency controls, 801; the sterling bloc, 803; export controls, 805; same: administration, 805; same: history and development, 806; same: impact upon national life, 807; same: elimination, 807.

INVESTMENT IN FOREIGN COUNTRIES (see DIRECT INVESTMENT)

LIMITATIONS ON FOREIGN ENTERPRISE

restrictions abroad, generally, 720-740; post World War I trends and present trends, 720-723; rational basis of some restrictions, 724; ownership of land and subsoil, 724; oil, 726; labor laws, 727; same: Cuban 50% law, 727; equal pay provisions, 728; factors in choice of foreign country to do business in, 729; immigration policies and requirements, 729; registry of foreign corporation, 730; business from which aliens are excluded, 732; methods of business organization, 733; use of resident agents, 734; use of travelling salesmen, 734; subsidiary corporations, 736; local forms of business associations, 736; special provisions as to foreign participation, 737; requirements as to stockholders, incorporators, directors and meetings, 738; consequences of registering a foreign corporation, 738; effect of tax laws, 740.

MONETARY PROBLEMS

influences of monetary controls, 641; monetary blocs, 642; financial agreements, 643; Export-Import Bank, 643; International Bank of Reconstruction and Development, 643.

NATIONAL AIMS IN FOREIGN TRADE (see AIMS AND INTERESTS IN TRADE)

POLITICAL BARRIERS

preferential geographical areas, 644.

"PROPOSALS FOR EXPANSION OF WORLD TRADE AND EMPLOYMENT"

State Department's Proposals, 647, 663 (footnote), 722; policies reflected, 666; specific reference to restrictive business practices, 667; flexibility as to nation's unilateral action on cartels, 674 ff.; prima facie violation as to restrictive practices, 676.

PROTECTION OF FOREIGN INVESTMENTS

peace treaties, world recuperation and trade barriers, 835 ff.; present day factors vs. prospects of lifting trade barriers, 836; interests of trade and modern theories of unrestrained force, 838; trade and confiscation of private enemy property, 838; present day attitudes on confiscation, 840; confiscation and confidence in foreign investments, 842; direct investments abroad by American citizens, 844; legal implications of non-intervention policy, 844; nationalization movement in Latin

America, 845; tax and other discriminations, 846; Calvo Clause, 846.

RECIPROCAL TRADE AGREEMENTS

U. S. program, 639, 650.

RESTRICTIONS AFFECTING CORPORATIONS (see also LIMITATIONS ON FOREIGN ENTERPRISE)

liberalism as to the corporate privilege, 713; limitations on freedom of association, 714; certain Latin-American formalities, 714; certain restrictions on foreign corporations as aliens, 715; personnel restrictions affecting stockholders and directors, 716-717; citizenship requirements for employees, 717; voting limitations, 718; attraction of capital vs. restrictions, 719.

RESTRICTIONS ON FOREIGN BUSINESS (see LIMITATIONS ON FOREIGN ENTERPRISES)

RESTRICTIVE BUSINESS PRACTICES

the U. S. "Proposals," 663-667; the Proposals' specific reference to restrictive practices—cartels, 667; nations' diverse outlook on cartels, 668; relation of the Proposals to U. S. anti-trust laws, 669; characteristic of U. S. sanctions against cartels, 670; U. S. anti-trust laws and foreign trade, 671; jurisdiction over foreign trade practices, 673; unilateral application of anti-trust laws, 674; the Proposals' prima facie violations, 676; the Proposals in light of immediate economic necessities, 677; recommendations: flexibility, 679; same: an international administrative agency, 680; same: clarifying jurisdiction, 680; same: dove-tailing our own anti-trust administration, 682.

SHERMAN ANTI-TRUST ACT (see CARTELS; RESTRICTIVE BUSINESS PRACTICES)

TAXATION

tax inducements to foreign trade, generally, 760-775; unilateral relief from double taxation under U. S. law, 760 ff.; direct credit for taxes paid abroad, 761; indirect credit for income of a foreign subsidiary, 762; corporations with income from U. S. possessions, 763; western hemisphere trade corporations, 764; tests for meriting exemption, 765; comparison and summary of types of unilateral relief, 767; bilateral relief from double taxation, 769; main principles, 769; shipping profits, 770; Franco-American treaty, 770; influence of League of Nations' committee, 771; Second Franco-American tax convention, 772; British-American income tax convention, 773; interest and royalties, 773; permanent establishment rule, 773; need for revised unilateral relief to supplement bilateral, 775.

TREATIES (see COMMERCIAL TREATY PROGRAM)

United States v. Aluminum Co. of America, 672

WEBB-POMERENE ACT

in relation to anti-trust law, 693.

6;

also

m-
min
ons
nel
ors,
ces,
ital

ONS

pe-
67;
ion
69;
els,
71;
uni-
ro-
sals
77;
ter-
ify-
own

aic-

60-
ader
said
for-
ome
nere
mp-
of
ble
ping
flu-
Sec-
ish-
and
773;
nent